

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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In the Matter of )

Implementation of Section 309(j)  
of the Communications Act -  
Competitive Bidding )

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PP Docket No. 93-253

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**PETITION FOR RECONSIDERATION OF  
METREX COMMUNICATIONS GROUP, INC.**

Metrex Communications Group, Inc. ("Metrex") hereby petitions the Federal Communications Commission ("FCC" or "Commission") for limited reconsideration of the FCC's Fifth Report and Order in this proceeding.<sup>1/</sup> Metrex requests that the Commission modify the stopping rules adopted by the FCC in its Fifth Report and Order to provide for the individual closing of broadband PCS BTA licenses after five rounds in which no acceptable bids are received for each BTA license. The significant number of broadband PCS licenses that will be auctioned for the BTAs and the need for certainty in the rules to develop viable bidding strategies warrants that the Commission immediately revise its rules to include an immediate stopping rule rather than declare the stopping rule for the BTA licenses in a public notice issued just prior to the auction.

**I. INTRODUCTION -- METREX - A LEADING SMALL BUSINESS COMMUNICATIONS COMPANY**

Metrex is a firmly established communications company with a wealth of experience in the telecommunications industry. Metrex

<sup>1/</sup> In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, (rel. July 15, 1994), Fifth Report and Order ("Fifth Report and Order").

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qualifies as a small business as defined in the *Fifth Report and Order* and intends to bid for broadband PCS licenses in the entrepreneurial block for BTAs in the greater southeast region of the United States. The principals of Metrex have a combined total of 50 years in the telecommunications industry and have owned and operated a wide range of wireless and fiber optic telecommunications systems. Metrex's principals entered the telecommunications industry as entrepreneurs in 1978 when they constructed and operated a regional paging system headquartered in Birmingham, Alabama.

In the mid 1980's, Metrex's principals were partners in and the principal operators of cellular systems operating in several cellular MSAs, including Birmingham, Alabama and Montgomery, Alabama. The Birmingham and Montgomery cellular systems successfully captured a significant percentage of the cellular market in the face of stiff competition from the wireline carrier. The principals of Metrex also have constructed fiber optic facilities in Atlanta that have been merged with MFS Communications Company ("MFS") and are used for MFS' Atlanta area competitive access network.

The breadth of experience and repeated success of Metrex's principals as entrepreneurs in the telecommunications industry put Metrex in a prime position to bid for and successfully operate broadband PCS systems. As a small business, Metrex will bid for broadband PCS licenses in the entrepreneurial block on a BTA basis.

**II. THE FCC SHOULD IMMEDIATELY ADOPT AN INDIVIDUAL STOPPING RULE FOR ALL BROADBAND PCS BTA LICENSES**

In the *Fifth Report and Order*, the Commission has proposed to apply a simultaneous stopping rule for broadband PCS BTA licenses.<sup>2/</sup> The FCC also retained its discretion to adopt a hybrid stopping rule or to allow bidding to close individually for broadband PCS BTA licenses based on its experience with the auctions. The FCC intends to announce its decision on a stopping rule in a public notice released before the auctions.<sup>3/</sup>

Metrex requests that the Commission revise its competitive bidding rules to uniformly apply an individual stopping rule for all broadband PCS BTA licenses. The individual stopping rule should close out each BTA license if no acceptable bidding rules are accepted after 5 rounds of bidding. Adoption of the individual closing rule on licenses for each BTA will promote the Commission's goal of ensuring a wide dissemination of licenses among applicants.

Adherence to the FCC's simultaneous closing rule for all licenses will promote 11th hour maneuvers by bidders and could prevent the implementation of regional strategies by companies bidding in the entrepreneurial blocks. Indeed, the simultaneous stopping rule could result in the loss of a license to an entity that truly valued the license and thwart a regional strategy because of the collateral effects of the stopping rule, the

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<sup>2/</sup> *Fifth Report and Order* at ¶ 47.


<sup>3/</sup> *Id.*

activity rule and bidding in separate markets. The FCC's creation of the entrepreneurial band is designed to stimulate the participation of small and entrepreneurial companies. In order to compete against the other four PCS licensees and particularly those licensees for channels A and B which will be awarded on an MTA basis, entrepreneurial block bidders must be able to develop and implement regional licensing strategies. A regional strategy, in turn, will be dependent on the closing out of certain pivotal license markets prior to the conclusion of the auction. The simultaneous stopping rule will prevent the certainty required for entrepreneurial block bidders to pursue regional strategies. Regional strategies are particularly important for companies that do not intend to pursue a combination of licenses that extend nationwide, which bidders in the entrepreneurial block are foreclosed from doing under the FCC's 10% cap. If maintained, therefore, the simultaneous closing rule will severely hamper the possibility of success of small businesses in the auctions.

A declaration by the Commission that it will apply an individual closing rule to broadband PCS BTA licenses is appropriate and should be adopted by the Commission on reconsideration not announced later through a public notice. The closing rule is a important component in the development of a bidding strategy. Strategies are now being formulated by bidders and are dependent on the definitiveness of the FCC's rules.

WHEREFORE, Metrex respectfully requests that the Commission modify its competitive bidding rules adopted in the *Fifth Report and Order* to include a simultaneous stopping rule for broadband PCS licenses awarded for BTAs.

Respectfully submitted,



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